

**Tennessee Board of Medical Examiners
October 5, 2004**

Teleconference Minutes

A teleconference for the Board of Medical Examiners was held at 3:10 p.m. in the Cumberland Room located on the Ground Floor of the Cordell Hull State Office Building on October 5, 2004.

Members in attendance electronically: Drs. Charles White and Subhi Ali

Member in attendance: Dr. Barbara Engelhardt

Staff Present: Rosemarie Otto, Executive Director; Dr. Larry Arnold, Medical Director; Robert J. Kraemer, Jr., General Counsel; Sandra Powell, Administrator, Marsha Arnold, Unit Manager

A teleconference was held to summarily suspend the medical license of Lorenzo Nichols, III, MD.

A roll call of the panel was held to determine if each participant could hear the response of the other. Dr. White made a motion to proceed to conduct the meeting electronically and Dr. Ali seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously.

A motion was made by Dr. White to proceed to conduct the meeting electronically by determining that the matter to be discussed met the following requirements: The subject matter required timely action, the physical presence of all members was not possible considering the period of time required for action, and the participation by some or all of the members of the board by electronic or other means was necessary. Dr. Ali seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously. Ms. Arnold reminded members to please identify themselves when speaking and turned the meeting over to Mr. Kraemer from the Office of General Counsel.

Mr. Kraemer addressed the panel and reminded the panel that they are charged with protecting the health, safety and welfare of the public. He then asked the members to elect a chair for the proceeding. Dr. Ali made a motion and Dr. White seconded that Dr. Engelhardt chair the meeting. A roll call vote was held to accept the motion and the motion was adopted unanimously.

Mr. Bob O'Connell, Attorney for the state, called Tennessee Bureau of Investigation agent Kim Harmon, and Charles Whitson Investigator for the Department of Health as witnesses and asked the court reporter to swear each in. Since Ms. Harmon was present electronically Mr. Kraemer insured she could be heard by all panel members.

The witnesses testified that the Respondent was arrested in Athens, Tennessee as a fugitive from justice on a Kentucky bench warrant (for non-payment of child support) and subsequently released from custody having made bond. On the date of the Respondent's arrest, agents of the searched the Respondent's office located in Athens, Tennessee and his residence, located in Riceville, Tennessee, with the following results:

1. In the Respondent's office, drug paraphernalia was discovered. In searching the space above the ceiling tiles in the Respondent's private office, two short straws, believed to be used for the inhalation of drugs, were recovered. Also found in his office were numerous folders containing a large number of prescriptions for controlled substances, written in the names of the Respondent's former office employees.

2. In the Respondent's home, TBI agents discovered and seized numerous partial and empty medication bottles for Schedule II, III, and IV medications, written in various patient names, numerous loose tablets of similar controlled medications, evidence of cocaine and marijuana use, a large quantity of blank prescription pads for his current Tennessee practice and his prior Kentucky practice, and approximately eighty (80) patient charts. At the time of the search, the Respondent's wife gave a statement to the agents that both she and the Respondent used cocaine, the Respondent used Ultram and that the Respondent wrote prescriptions for controlled medications in the names of five patients which medications were subsequently delivered to her for her own use.

Pursuant to the searches conducted and the results described above, the Respondent and his wife were charged with felony possession of Schedule II, III, IV, and VI narcotics and possession of drug paraphernalia, also on September 30, 2004.

On more than one occasion, between June 2004 and September 2004, the Respondent wrote prescriptions for Ultram in the name of his office manager, instructing him to fill those prescriptions and return the drugs to him (the Respondent). TBI became aware that the Respondent kept his Ultram in his private office, above a corner ceiling tile, and in his office desk.

Department of Health Investigator Charles Whitson stated that when he interviewed various members of the Respondent's office staff they confirmed that on August 13, 2004, the Respondent remained in his private office with his brother-in-law, from approximately 10:00 a.m. to 12:00 noon, ignoring the Respondent's waiting patients. Both the Respondent and his brother-in-law appeared impaired. Further, during the months preceding his arrest, the Respondent exhibited bizarre behavior in the office, including periods of disorientation during patient hours, unexplained absences, and lying concerning his whereabouts during those absences. He was also consistently late for appointments and always appeared completely exhausted.

In June, July, and August, 2004, operating room staff at Athens Regional Medical Center (hereinafter "Athens Regional") frequently called the Respondent's office around 10:00 a.m. to 10:30 a.m., relating to the Respondent's staff that the Respondent's patients were in the pre-op area under sedation, where they had been waiting for hours. The Respondent, scheduled to

perform surgery, was not present nor was he reachable by pager. He was also frequently unavailable for required post operative visits, resulting in patients being referred to other providers.

In late July 2004 or early August, 2004, a nurse on the surgery floor at Athens Regional filed an incident report alleging that the Respondent was present on the surgery floor in an impaired condition searching unsuccessfully for a patient on whom he was to perform surgery. The Respondent was asked to take a drug screen and refused. Five nurses at Athens Regional report having seen the Respondent there in a disoriented state. The Chief of Surgery and the reporting nurse began to develop special "protocols" in an effort to keep the Respondent from performing surgeries. The Respondent's privileges at Athens Regional have now been suspended. The hospital administrators asked the Respondent to contact the Tennessee Medical Foundation (hereinafter "TMF") regarding his impairment.

The Respondent moved his practice from Kentucky to Tennessee in 2003, after having paid large malpractice claims, resulting from him having spread to surgical patients his own highly antibiotic resistant staph infection. During the September 30, 2004 search of his office, a number of medical instruments were discovered stored in various locations with no concern for their sterility or cleanliness. The office was found to be in a general state of uncleanness.

The board asked questions of agent Harmon and investigator Whitson. Mr. O'Connell made his closing statements. Dr. White made a motion to accept the Findings of Fact in the proposed Order of Suspension. Dr. Ali seconded the motion and the motion carried unanimously by roll call vote. Dr. Ali made and Dr. White seconded a motion to accept the Conclusions of Law in the proposed Order. The motion passed unanimously by roll call vote. Dr. White made a motion to suspend the medical license of Dr. Nichols and Dr. Ali seconded the motion. By roll call vote the motion passed unanimously.

Dr. White made a statement that the suspension required emergency action and was made to protect the health, safety and welfare of the citizens of the State of Tennessee. The statement was adopted by roll call vote.

The meeting was concluded at 4:30 p.m.

These minutes were ratified by the Board on November 16, 2004.

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